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4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA

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7 IN RE DAWN D. DILLON ESTATE,

Case No. 2:18-cv-01582-JCM-GWF

8 Plaintiff,

9 v.

ORDER

10 BAYVIEW LOAN SERVICING,
11 LLC, *et al.*,

12 Defendants.

13 This matter is before the Court on Defendant Ditech Financial LLC's ("Ditech") Motion
14 to Stay Discovery Pending Decision of the Motion to Dismiss (ECF No. 23), filed September 24,
15 2018. Defendant JPMorgan Chase Bank, N.A. filed its Joinder to Ditech's Motion (ECF No. 25)
16 on September 26, 2018, and Defendants Bayview Loan Servicing LLC, Bank of New York
17 Mellon Trustee to CWALT Inc., Mortgage electronic Registration Systems, Inc., Bank of
18 America, N.A., and Seaside Trustee, Inc., filed their Joinder to Ditech's Motion (ECF No. 26) on
19 September 28, 2018. Plaintiff filed her Rejection of all Defendant(s) Stay of Discovery (ECF
20 No. 27) on October 9, 2018. Ditech filed its Reply to Plaintiff's Rejection (ECF No. 32) on
21 October 16, 2018.

22 **BACKGROUND**

23 On August 20, 2018, Plaintiff filed a Praecipe for Personal Summons Extraordinary Writ
24 of Execution Involuntary Bankruptcy Foreign Proceedings & Action. ECF No. 1. While it is
25 unclear to the Court which allegations Plaintiff sets forth in her Praecipe, the general facts
26 surround certain real property located at 5003 Thunder River Circle, Las Vegas, Nevada 89148
27 ("Subject Property") and foreclosure prevention.
28

1 **DISCUSSION**

2 The Federal Rules of Civil Procedure do not provide for automatic or blanket stays of
3 discovery when a potentially dispositive motion is pending. See *Skellerup Indus. Ltd. V. City of*
4 *L.A.*, 163 F.R.D. 598, 600-1 (C.D. Cal. 1995). Ordinarily, a dispositive motion does not warrant
5 a stay of discovery. See *Twin City Fire Insurance v. Employers of Wausau*, 124 F.R.D. 652, 653
6 (D. Nev. 1989). See also *Turner Broadcasting System, Inc. v. Tracinda Corp.*, 175 F.R.D. 554,
7 556 (D. Nev. 1997). The moving party carries the heavy burden of making a strong showing of
8 why discovery should be denied. *Kor Media Group, LLC v. Green*, 294 F.R.D. 579, 581 (D.
9 Nev. 2013).

10 Courts have broad discretionary power to control discovery. See *Little v. City of Seattle*,
11 863 F.2d 681, 685 (9th Cir.1988). When deciding whether to grant a stay of discovery, the Court
12 is guided by the objectives of Fed. R. Civ. Pro. 1 that ensures a “just, speedy, and inexpensive
13 determination of every action.” *Kor Media Group*, 294 F.R.D. at 581. The Court may grant a
14 motion to stay discovery when “(1) the pending motion is potentially dispositive; (2) the
15 potentially dispositive motion can be decided without additional discovery; and (3) the Court has
16 taken a “preliminary peek” at the merits of the potentially dispositive motion and is convinced
17 that the plaintiff will be unable to state a claim for relief.” *Kor Media Group*, 294 F.R.D. at 581.
18 Common examples of when a stay is warranted are cases involving jurisdiction, venue or
19 immunity as preliminary issues. *Twin City Fire Ins. Co.*, 124 F.R.D. 662, 664 (D. Nev. 2007).
20 Furthermore, a stay of discover might be appropriate where the complaint was utterly frivolous
21 or filed merely for settlement value. 4 J. Moore, *Federal Practice* § 26.70[2s] at 461.

22 After conducting its “preliminary peek” of Plaintiff’s Praeipce and (ECF No. 1) and
23 Defendants’ Motions to Dismiss (ECF Nos. 7, 13, 17, 20, and 21), the Court finds the stay of
24 discovery is warranted. The issues raised in the motions to dismiss deal with issues of law and
25 do not require further factual discovery at this time. Moreover, the Plaintiff will not be
26 prejudiced by a temporary stay of discovery. Accordingly,

27 . . .

28 . . .

IT IS HEREBY ORDERED that Defendant Ditech Financial LLC's Motion to Stay Discovery Pending Decision of the Motion to Dismiss (ECF No. 23) is **granted**.

IT IS FURTHER ORDERED that the parties shall file a proposed discovery plan and scheduling order within **fourteen (14)** days of the Court's ruling on Defendants pending motions to dismiss, in the event the motions are denied.

Dated this 18th day of October, 2018.

George Foley Jr.

GEORGE FOLEY, JR.
UNITED STATES MAGISTRATE JUDGE